

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

GEORGE A. JACKSON, et al.,)	
)	
Plaintiffs,)	
)	
v.)	C. A. No. 05-823-***
)	
STANLEY TAYLOR, et al.,)	JURY TRIAL REQUESTED
)	
Defendants.)	

DEFENDANTS' ANSWER TO THE AMENDED COMPLAINT

COME NOW Defendants Stanley Taylor, Joyce Talley, Carl Anson, Debbie Melvin, Wenston White, Chris Senato, Joseph Adkins, Bethany Evans, Robert Manuel and Michael Knight ("Defendants"), by and through the undersigned counsel, and hereby answer the Complaint:

II. Exhaustion of Administrative Remedies

- A. Admitted.
- B. Admitted.
- C.
 - 1. Admitted.
 - 2. Admitted.

III. Defendants

- 1. Admitted that as of the date of the filing of this Answer, Defendant Stanley Taylor is the Commissioner of the Delaware Department of Correction ("DOC").
- 2. Admitted that as of the date of the filing of this Answer, Defendant Joyce Talley is Bureau Chief of Management Services for DOC.

3. Denied that Tony Figario is the Chief of Inspections/Security for DOC.

[4.] Denied that Defendant Carl Anson is Chief of Maintenance at the Sussex Correctional Institution (“SCI”)

[5.] Because DOC has been dismissed as a Defendant from this action, no response is required.

[6.] Admitted that as of the date of the filing of this Answer, Defendant Michael Knight is the Correctional Food Service Administrator for the Delaware Department of Correction. The remaining allegations are denied, except that it is admitted that, as of the date of the filing of this Answer, Defendants Chris Senato, Debbie Melvin, *Robert* Manuel, Bethany Evans and Wenston White are employed as food service staff at SCI. Richard Crockett, Darrell Mullins and Steven Raynor have not been served with the Amended Complaint and this Answer is not filed on their behalf.

IV. Statement of Claim

1. Denied that this matter is a class action or that it meets the requirements of Fed. R. Civ. P. 23. Further denied that the current Plaintiffs have standing to assert claims on behalf of individuals who have not been recognized as plaintiffs in this action.

2. (Physical Plant). Admitted that the kitchen consists of older and newer sections, both of which are equipped with commercial cooking and other equipment. The remaining allegations set forth in this paragraph are denied.

3. (Inadequate Ventilation). Denied.

4. Denied.

5. Denied.

6. Denied.

7. Denied.
8. Denied.
9. Denied.
10. Denied.
11. Denied.

RELIEF

1. It is specifically denied that Plaintiffs are entitled to compensatory, punitive or any monetary damages.
2. It is specifically denied that Plaintiffs are entitled to injunctive, declaratory or any other relief.
3. It is specifically denied that Plaintiffs are entitled to attorneys' fees.

AFFIRMATIVE DEFENSES

4. Plaintiffs have failed to state a claim upon which relief can be granted.
5. Defendants are immune from liability under the Eleventh Amendment.
6. Defendants are entitled to qualified immunity.
7. As to any claims under state law, Defendants are entitled to immunity under the State Tort Claims Act, 10 *Del. C.* § 4001, *et seq.*
8. As to any claims under state law, Defendants are entitled to sovereign immunity in their official capacities.
9. Defendants cannot be held liable in the absence of personal involvement for the alleged constitutional deprivations.

10. To the extent that Plaintiffs seek to hold Defendants liable based on supervisory responsibilities, the doctrine of *respondeat superior* or vicarious liability is not a basis for liability in an action under 42 U.S.C. § 1983.

11. Defendants, in their official capacities, are not liable for alleged violations of Plaintiffs' constitutional rights as they are not "persons" within the meaning of 42 U.S.C. § 1983.

12. Insufficiency of service of process.

13. Insufficiency of process.

14. Lack of jurisdiction over the person and subject matter.

15. This cause of action is barred by the applicable statute of limitations.

16. These *pro se* Plaintiffs cannot represent their fellow inmates in a class action.

WHEREFORE, Defendants respectfully request that judgment be entered in their favor and against Plaintiffs as to all claims and that attorney fees be awarded to them.

STATE OF DELAWARE
DEPARTMENT OF JUSTICE

/s/ Eileen Kelly
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Date: January 3, 2007

CERTIFICATE OF SERVICE

I hereby certify that on January 3, 2007, I electronically filed *Defendants' Answer to the Amended Complaint* with the Clerk of Court using CM/ECF. I hereby certify that on January 3, 2007, I have mailed by United States Postal Service, the document to the non-registered parties on the attached service list.

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